

[The allegations of the bill and the answer in this case will be found stated in 9 *Gill*, 472, where the appeal from the order of Baltimore County Court, in the equity side of which the bill was filed, overruling the motion to discharge the receiver, was affirmed, and the cause remanded for further proceedings. It was subsequently removed to the Court of Chancery. The evidence and the other proceedings in the cause are sufficiently stated in the following opinion of the Chancellor.]

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THE CHANCELLOR :

The facts alleged on the one side, and the other by the pleadings in this case are sufficiently stated in the report of the cause in 9 *Gill*, 472, upon the appeal from the order refusing to discharge the receiver, and need not be again repeated. So far as the opinion then delivered by the Court of Appeals is applicable to the case as it now stands, this court, of course, deems itself bound to conform to it.

I understand that opinion to have decided that these parties in the adventure which has given rise to the present controversy were partners, and that the partnership was dissolved by the sale of the vessel at San Francisco in August, 1850. In speaking of the conduct of the defendant as developed by the pleadings and proofs in the case at that time, the court, avoiding the expression of an opinion which should control the ultimate decision of the cause, say, that in the transactions at San Francisco he acted precipitately, and under great excitement, for which, however, they intimate there was provocation. That he assented to, if he did not coerce, a sacrifice of the vessel. He bought the vessel himself, and the agent of the plaintiff, in his testimony, charges him expressly with precipitating the sale before the cargo was discharged. Yet the fair character of the purchase, and the price paid seems to be fully sustained by other testimony, though he sold the vessel soon after for twice the amount, and the court then expressly waive, at that stage of the cause, the decision of the question touching the effect upon the sale of the fiduciary relation which has existed between the parties.

A good deal of evidence has been taken on both sides since